



May 28, 2020  
via Email and Fax to [717-772-8284](tel:717-772-8284)

Hon. Tom Wolf  
Office of the Governor  
508 Main Capitol Building  
Harrisburg, PA 17120

Re: Notice to Cease and Desist Deprivation of Constitutional Rights

Dear Governor Wolf:

Gun Owners of America and Gun Owners Foundation (together “GOA”) are nonprofit organizations dedicated to protecting the right of the people to acquire, possess, and use firearms. GOA represents the interests of over two million members and supporters, many thousands of whom reside in Pennsylvania. GOA’s mission is to preserve and defend the Second Amendment rights of gun owners.

Our members and supporters in Pennsylvania have been extremely concerned about the provisions of the Commonwealth’s shut down orders that have required firearms shooting ranges to close. The Commonwealth’s current myriad shut down orders, phased reopenings, guidances, lists, FAQs, and application-for-waiver process together constitute a voluminous, nearly impenetrable, and virtually incomprehensible labyrinth of regulations and restrictions being imposed on the citizens of Pennsylvania through executive action, and without any sort of approval from the legislative branch. **However, this letter addresses only the restrictions that have been imposed on Second Amendment protected businesses.**

Under your original shut down order, gun stores within Pennsylvania were ordered closed, resulting in litigation in state court, where several justices of the Supreme Court of Pennsylvania believed that firearms retailers must be permitted to reopen.<sup>1</sup> You subsequently decided to permit such businesses to open on a limited basis.<sup>2</sup> However, many firearms shooting ranges within the Commonwealth have continued to remain closed.<sup>3</sup> Additionally, the Pennsylvania Game Commission closed 30 outdoor, state run shooting ranges across the Commonwealth,<sup>4</sup> but reportedly now has re-opened some as of May 8.<sup>5</sup>

---

<sup>1</sup> [Civil Rights Defense Firm, P.C., et al. v. Governor Tom Wolf, Concurring and Dissenting Statement](#) (Supreme Court of PA, Middle District).

<sup>2</sup> [Life Sustaining Business Frequently Asked Questions](#) (Section 32, p. 12).

<sup>3</sup> Firearm shooting ranges do not appear in any of the categories in the Industry Operation Guidance so-called “[complete list](#),” updated May 11, 2020.

<sup>4</sup> M. Schneck, “[Pa. Game Commission closes 30 shooting ranges in response to coronavirus](#),” *Penn Live* (Mar. 20, 2020).

Your current shut down order has now been extended through June 4, 2020 and, of course, could be subject to further extensions. Currently, some counties in Pennsylvania remain in so-called “red phase,” while others have been permitted to transition to so-called “yellow phase.”<sup>6</sup>

The Pennsylvania Department of Community and Economic Development advises that “Gun Ranges are allowed to operate once your region moves into the YELLOW phase. They must follow the same guidelines by the CDC and DOH.”<sup>7</sup> That interpretation is unfortunate. We write to urge that the Pennsylvania shut down order be amended immediately to permit shooting ranges of all sorts to reopen, for several reasons.

First, for seemingly no legitimate reason other than political agenda, Pennsylvania has refused to follow the Department of Homeland Security’s classification of Second Amendment businesses including shooting ranges as “Essential Critical Infrastructure” in its “Advisory Memorandum on Identification of Essential Critical Infrastructure Workers during COVID-19 Response.” Originally issued [March 19, 2020](#), the current [May 19, 2020](#) CISA Memo designates the following category of workers as “critical infrastructure”:

*Workers supporting the operation of firearm or ammunition product manufacturers, retailers, importers, distributors, and shooting ranges.*

Unlike the shut down orders in almost all other states and localities, your shut down order expressly adopts *only* the original March 19, 2020 CISA list, expressly stating that “[s]ubsequent changes to the CISA guidance were not adopted by the Commonwealth and were not applied when analyzing requests for exemptions.”<sup>8</sup> Thus, we would urge you to amend the essential business designations in your Order, to bring it into line with the federal government’s list of the “critical infrastructure” workforce in the DHS May 19, 2020 CISA Memorandum.

Second, neither outdoor nor indoor shooting ranges pose a danger to public health. Many of the shooting ranges closed under your order are **outdoor ranges** — where the risk of transmission of any virus is far lower than most (if not all) indoor businesses that remain open within the Commonwealth — such as grocery stores, drug stores, and home improvement stores. Outdoor shooting ranges typically designate shooters into specific “lanes,” where they must be physically separated — meaning social distancing is an inherent reality for outdoor ranges. Additionally, many private outdoor shooting ranges do not engage in retail sales to the public,

---

<sup>5</sup> A. Limberg, [“PA Game Commission Says Some Shooting Ranges to Reopen Friday,”](#) KDKA Radio (May 5, 2020).

<sup>6</sup> Public Health Press Release, [“Gov. Wolf, Sec. of Health Take Actions on Stay-at-Home Orders, Issue Yellow Phase Orders”](#) (May 7, 2020).

<sup>7</sup> Presumably, this means that indoor shooting ranges are not considered to be “indoor recreation” facilities which must remain closed under “yellow phase.” <https://www.governor.pa.gov/process-to-reopen-pennsylvania/>

<sup>8</sup> See Life Sustaining Business Frequently Asked Questions.

but instead are freely accessed by existing members, meaning little to no person-to-person interaction is necessary.

**Indoor ranges** also provide a safe environment even during a pandemic. Many — if not all — indoor ranges utilize air filtration systems wherein air is forcibly blown forward and away from shooters, and circulated through advanced HEPA filtration systems every couple of minutes. Such a system protects not only against lead and gunpowder contaminants, but also from viruses. To order that outdoor shooting ranges and indoor ranges with advanced air filtration systems must be closed to stop the spread of COVID-19, while countless indoor businesses remain open to the public, is extremely suspect.

Third, shooting ranges permit the necessary exercise of the enumerated constitutional right to keep and bear arms. Protected by both the Second Amendment to the U.S. Constitution and Article I, Section 21 of the Pennsylvania Constitution, the right to keep and bear arms necessarily implicates the right to practice and maintain proficiency with firearms. Numerous courts have held as much. The Seventh Circuit has explained that “[t]he right to possess firearms for protection implies a corresponding right to acquire and maintain proficiency in their use; the core right wouldn’t mean much without the training and practice that make it effective.” *Ezell v. City of Chicago*, 651 F.3d 684, 704 (7th Cir. 2011). *See also Jackson v. City & County of San Francisco*, 746 F.3d 953, 967 (9th Cir. 2014) (“Thus ‘the right to possess firearms for protection implies a corresponding right’ to obtain the bullets necessary to use them.”).

As you may know, a Virginia judge recently ruled, in a case brought by Gun Owners of America as a plaintiff, that Governor Northam had no authority to order an indoor shooting range to close its doors.<sup>9</sup> Likewise, Massachusetts Governor Baker recently updated his shut down order to permit shooting ranges to reopen,<sup>10</sup> in response to litigation brought in federal court by Gun Owners of America. *See Cedrone, et. al. v. Baker, et. al.*, 4:20-cv-40041 (D. Ma.). Similarly, Maryland Governor Hogan recently amended his shut down order<sup>11</sup> to include shooting ranges after GOA sent a letter urging their reopening.<sup>12</sup> What’s more, several members of the U.S. Supreme Court recently indicated that shooting ranges are within the scope of the Second Amendment’s protections.<sup>13</sup> In short, there is simply no need — much less legal justification — for closing an outdoor business that operates with the sole purpose of facilitating the exercise of an enumerated constitutional right.

---

<sup>9</sup> V. Stracqualursi, “[Judge rules Virginia indoor gun range can reopen amid coronavirus pandemic](#),” *CNN* (Apr. 28, 2020).

<sup>10</sup> [Reopening Massachusetts: Guidance for industries on the reopening plan](#) (May 18, 2020).

<sup>11</sup> State of Maryland, [Executive Order No. 20-05-06-01](#) (May 6, 2020).

<sup>12</sup> J. Stein, “[GOA Victories in Massachusetts & Maryland to Reopen Gun Stores, Shooting Ranges](#),” Gun Owners of America (May 7, 2020).

<sup>13</sup> *New York State Rifle & Pistol Association v. City of New York*, Supreme Court [Opinion](#) (Apr. 27, 2020).

Fourth, the decision to close Pennsylvania shooting ranges, and thereby deprive citizens of training and practice, threatens your citizens' personal and family safety, exposing them to the very real risk of physical harm. Self-defense is more important now than ever. Already, countless members of law enforcement nationwide have either tested positive for the COVID-19 virus or have been put into quarantine. What is more, some police and sheriff departments across the country have been announcing that they will not be making arrests for minor crimes in many locations. Under such circumstances, the right — and need — of each individual to protect himself and his family becomes clearly apparent. Many states and cities reportedly have been releasing supposedly low-level inmates from various jails, in an effort to stem the tide of the virus. Finally, news stories have reported increasing worries of civil unrest. For all these reasons, law-abiding Pennsylvania gun owners must be permitted to continue to train and practice with their firearms, in order to maintain proficiency. Indeed, responsible and well-trained gun owners increases public safety.

It is one thing for a state to order closed a tanning salon or pet grooming service for public health reasons. It is quite another to order closed businesses which permit Pennsylvania residents to exercise constitutional rights that are expressly and unequivocally protected by the federal and state constitutions. The Second Amendment's protections do not stop, nor does the need for self-defense abate, during a pandemic. Indeed, the exact opposite is true. The protection of constitutional rights is most important during times of emergency and unrest, because that is precisely when those rights are needed the most, and is often when the agents of government are most interested in curtailing them.

Thus, we respectfully request that you immediately amend your shut down order as it has been applied to close firearm shooting ranges within the Commonwealth. We urge you to bring Pennsylvania into line with the vast majority of other states that have allowed shooting ranges to continue operation, and into line with the DHS CISA Memorandum, and federal and state constitutional requirements.

If you are not willing to make this change, we would appreciate your response informing us of your decision, so that we may pursue necessary additional steps to protect the enumerated constitutional rights of our members and supporters. With best regards.

Sincerely,



Erich Pratt  
Senior Vice President



Val W. Finnell, MD, MPH  
Pennsylvania Director